

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCES McLAUGHLIN	:	CIVIL ACTION
	:	
v.	:	
	:	
PHILADELPHIA HOUSING	:	
AUTHORITY and AFSCME LOCAL 2187	:	
	:	NO. 02-1762

MEMORANDUM-ORDER

AND NOW, this 1st day of October, 2002, defendant AFSCME Local 2187's motion to dismiss the amended complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6) ¹ is ruled on as follows:

1. As to claims for breach of duty of fair representation and for violation of the Pennsylvania Public Employee Relations Act - denied. The amended complaint satisfies the standards of notice pleading as set forth in by Fed. R. Civ. P. 8(a) ².

2. As to whether plaintiff is entitled under PERA to a trial by jury - moot. The joint Rule 16 Conference Report states that only the Title VII claims will be tried by a jury.

Edmund V. Ludwig, J.

¹ In considering a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), all material allegations in the complaint are accepted as true and viewed most favorably to plaintiff, and dismissal is appropriate only if it appears that plaintiff could prove no set of facts that would entitle relief. Brown v. Philip Morris, Inc., 250 F.3d 789, 796 (3d Cir. 2001).

² Fed R. Civ. P. 8(a): "A pleading which sets forth a claim for relief . . . shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief."

